

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

CITIBANK, N.A.,

Plaintiff,

v.

No. 20 Civ. ____ (____)

BRIGADE CAPITAL MANAGEMENT, LP,

Defendant.

**DECLARATION OF MATTHEW D. INGBER IN SUPPORT OF PLAINTIFF
CITIBANK, N.A.'S APPLICATION FOR A TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION**

I, Matthew D. Ingber, pursuant to 28 U.S.C. § 1746 and upon penalty of perjury declare as follows:

1. I am a resident of the State of New York; over the age of 18; and competent to make this declaration. I could and would testify as to the matters set forth herein, if called upon to do so.
2. I am a partner in the New York office of the law firm of Mayer Brown LLP. I am counsel of record for Citibank, N.A. ("Citibank") in the above-captioned action.
3. I submit this Declaration in support of Citibank's application for a temporary restraining order and preliminary injunction against Defendant Brigade Capital Management, LP ("Defendant") ordering Defendant to remit to Citibank the overpayment received from Citibank or in the alternative, ordering Defendant to refrain immediately from removing, withdrawing, transferring, assigning, or otherwise disposing of the overpayment mistakenly transferred to Defendant by Citibank on August 11, 2020, pending a final determination on the merits of this action.
4. No prior application for the relief sought herein has been requested.

5. As explained in Citibank's accompanying Memorandum of Law, Defendant's unlawful retention and distribution of the misappropriated funds will cause irreparable harm unless Defendant is ordered to immediately freeze the overpayment received from Citibank and is enjoined from transferring or distributing those funds. Indeed, Defendant has made their intention to unlawfully retain the funds clear, despite Defendant's knowledge that the funds were transferred by mistake.

6. On August 17, 2020 an employee from Citibank's legal department gave notice to Aaron Daniels, General Counsel of Defendant, of Citibank's motion for a temporary restraining order and preliminary injunction and Citibank's intent to file the present motion today.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and that this declaration was executed this 17th day of August, 2020.

By: /s/ Matthew D. Ingber
Matthew D. Ingber